IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WA.No. 1051 of 2007

AGAINST THE JUDGEMENT IN WP(C) NO.26787/2006 Dated 24/01/2007

APPELLANT: PETITIONER.

P.T.RAJU, PUNNAPATTATHU THODI,
MANATHU MANGALAM, PERINTHALMANNA.

BY ADV. SRI.M.P.ASHOK KUMAR

RESPONDENTS: RESPONDENTS.

1. THE PERINTHALMANNA MUNICIPALITY,
   PERINTHALMANNA, MALAPPURAM DISTRICT,
   REPRESENTED BY ITS SECRETARY.

2. THE MUNICIPAL COUNCIL,
   PERINTHALMANNA MUNICIPALITY, MALAPPURAM DISTRICT,
   REPRESENTED BY ITS PRESIDENT.

3. SRI.SANKARA NARAYANAN, S/O. M.K.NARAYANA MENON,
   SHOP NO.42, MANNAZHY BUS STAND AND SHOPPING
   COMPLEX, PERINTHALMANNA, MALAPPURAM DISTRICT.

4. SRI.THOPPIL GANGADHARAN, S/O. KUTTAPPAN,
   SHOP NO. 43, MANNAZHY BUS STAND AND SHOPPING
   COMPLEX, PERINTHALMANNA, MALAPPURAM DISTRICT.

5. SRI.MADALA MUHAMMED MUSTHAFA,
   AND SRI. M.K.SHEREEF, SHOP NO.48,
   MANNAZHY BUS STAND AND SHOPPING COMPLEX,
   PERINTHALMANNA, MALAPPURAM DISTRICT.

6. SRI.N.P.MOHANAN, "AISWARYA",
   CHERUKARA P.O., MALAPPURAM DISTRICT.

STANDING COUNSEL SRI.P.K.VIJAYAMOHANAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1051 OF 2007

Dated this the 20th June, 2007

JUDGMENT

H.L.DATTU, C.J.

Challenging the correctness or otherwise of the orders passed by the learned single Judge in W.P.(C) No.26787 of 2006 dated 24.1.2007, petitioner is before us in this writ appeal.

2. Sri.Ashok Kumar, learned counsel appearing for the appellant would vehemently contend before this Court that after completion of the auction process, the respondents could not have relaxed any conditions on the request made by the allottees/hirers. According to the learned counsel, this action of the Municipality is contrary to the provisions of the Municipalities Act/Panchayat Raj Act, etc. Therefore, he submits that the action of the Municipality is not only arbitrary but also violative of Articles 14 and 19(1)(g) of the Constitution of India. The learned counsel also takes us through the statement of objections filed by the contesting respondents to demonstrate that the entire action of the Municipality is wholly irregular and illegal.

3. The submission of the appellant and his counsel is that appellant could not participate in the tender process for the sole and simple reason that he was unable to deposit Rs.6 lakhs, which was one of the terms and

conditions of the tender. It is further submitted that after the auctions are over, on the request made by the allottees, the Municipality could not have relaxed the conditions. In our opinion, this submission of the learned counsel cannot be countenanced by us. In fact, there are 53 shops still available. The Municipality is going to re-auction those shops. If appellant is interested, he can definitely participate in the auction process that is being held by the Municipality. If, for any reason, the appellant is found to be a successful bidder and if a shop is allotted to him, he can request the respondents in the appeal to relax the terms and conditions of the tender. If, for any reason, the same is not done to the appellant, he can definitely come before this Court. In that view of the matter, we do not see any good ground to interfere with the orders and directions issued by the learned single Judge while disposing of the Writ Petition. Therefore, the Writ Appeal is dismissed.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/